Supreme Court, U.S.
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No. 05-895

IN THE

# Supreme Court of the United States

TIMOTHY C. PIGFORD, *et al.*,
*Petitioners,*

v.

MICHAEL JOHANNS, SECRETARY,
THE UNITED STATES DEPARTMENT OF AGRICULTURE,
*Defendant.*

**Petition for a Writ of Certiorari to the United States Court of Appeals for the D.C. Circuit**

## PETITION FOR A WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

1. Whether 208 eligible class members, most of who were *pro se*, were entitled to notice of the deadline for seeking review of the denial of their claims?

2. Whether the Court of Appeals erred in holding that 92 class members who missed dispositive filing deadlines due to errors of class counsel were not entitled to relief under Rule 60(b)(5), despite the Court's own previous decision, in the same case and under the same circumstances, affording such a relief to a single class member?

## RULE 14.1(b) STATEMENT

Petitioners are 300 African Americans who are members of the class certified by United States District Court for the District of Columbia in *Pigford v. Glickman*, 127 F.Supp 2d 35, 40 (D.D.C. 2001). The *Pigford* class, consisting of over 21,000 class members, sued the United States Department of Agriculture, through its Secretary, respondent here and appellee in the Court of Appeals below. In 1999 the *Pigford* class action was settled by consent decree. The following 300[1] petitioners seeking certiorari were class members in the District Court and appellants in the Court of Appeals: Edgar White, William Brown, Larry Pride, Gilbert E. Wilson, Richard Weaver, Hattie Bracy, Reginald B. Ware Sr, LNC Inc, Mitchell Bramley, Joe P. Jones, Jonathan Moore Sr, Clarence C. Paulk, Calvin Jones, Wilson Johnson, Eddie L. Tookes, Sr., Joseph F. Tookes, Lonnie Tookes, Mon T. Grays, James R. Bates, Virginia Howerton, O. Rivers Patterson, Denise Karen Hardin, Jimmy Lee Lacy, O'Donald Dingle, Roosevelt Sanders, McKinley Young, Sam R. Sanders, Edd Smith, Wilhelmina Parrish, James C. Wilson, Darryl M. Cole, Jimmie Mclean, Sylvester Nix, Sam W. Witcher Jr., Anthony Boutte, Anthony Boutte, Robert Daniels Diggs, Grant Powell, Farris Young, James Jones, Willie Holloway, Otis Wilson, Jr, Abraham Carpenter, Albert Carpenter, Terry Carpenter, Danny Carpenter, Carpenter's Produce, Fredia Elizabeth Hughes, Arthur Bennett, Delorse Crosby, Lucy M. (Lott) Ates, R.L. Smith, Walter L. Johnson, John M. Bond, Willie Franklin, Johnny Rodgers, Morris Kinsey, Harriet Bates, James Green, Willie Mae Denish, Thomas Harris, Petline Mendenhall, Carrie Lockhart Baker, Tarleton Way, Jack Whorline, James Strong, Sr., Darden

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[1] In some instances, a single claim was filed by a husband and wife together or by more than one family member for the benefit of a decedent's estate. In such cases two names are separated by a slash and are counted as one petitioner.

Bridgeforth, James E Purty, Alma Ross, Napoleon Hughes, Robert Lee Byrd Jr, Roderick Jones, Eddie Jenkins Jr, Willie A Dancey, William Eligah Spencer, Dessie R Magee, Nathaniel Ausby, Fairro J Brown, Joseph Martin, Gwendolyn G McMillian, Mary G McMillian, Harvey Flowers, John Henry Heard Jr, Douglas Copeland Ivory, John Edward Way, Gene Autry Perry, Sammy L Hall, John Adkins, Ozell Davis, Leroy Colson, George Houston, Jr., John Easton, Darnell Cotton, Cleveland Weldon, Larry Villines, Larry R. Whitt, Emsley Lockhart, Jodie Mcguire, Rebecca Ann Clayton, James H. Kea, Dozella B. Bullock, Estelle Marie Caldwell, Leroy Bellamy, Brown J. Hawkins, Roland George Hardy, Isom Holman, William H. Artis, Isiah Brown, Lovie Clark, Mallie Hodge, Eddie Payton, Ernest T. Jones, Willie Ella Henderson, Levy Parrish, Macon Stallings, Horace Jones/ Lottie L. Jones, Arnett Davis, Louis Mays, Marie B. King, Albert Matthews, Rosie Phillips, Elijah Sanders, Clisby Mills, Joseph E. Stewart, Eugene Beckwith, Ava L. Bates, Theodore F.B. Bates, Alvin T. Bates, Samuel Lee Cain, Raleigh Bradley/Carrie Bradley, Wilbert Morrow, Allie R Jones/ Lottie D. Jones, Rosa Sanders, Leaner Sanders, Vicki Peterson, Brendalyn Purse (FBO Sam Perry, Deceased), Ron T Schneider, Phillip C Parrish/ Deloise Parrish, Willie E Harrell/Elisha B Harrell, Mitchell January, Bessie Campbell, William Ray Twilley, Marvin D Stockdale, Reginald K Williams, Darlene O'Bannon, Kenelle Reeves, Louis C. Martin/Eddie Ray Martin, Ira Tillman Sr. (C/O Beverly Burkett), Edward C. Plummer (FBO Roosevelt Plummer, Deceased), Ermer Preston (FBO Willie Mae Tillman, Deceased), Robert E Grace/ Mary E Grace, Al Pierro (FBO Jeffarlene Pierro, Deceased), Richard D Dotson/ Mary Lee Dotson, Eunice Stewart, Carl Jenkins, Glenda Brazziel, Annette Wilson, Rene Wilson, Griffin Williams/Grace Williams, Mcletha Boyd Matthews (FBO Charlie Lee Boyd, Deceased), Bertha Troutman, Walter Britton/Paris Bryer (FBO Cearria Britton, Deceased), Fannie M Morris (FBO

Amy Marshall, Deceased), Pat Moore, Willie B Edwards Sr/Luella P Edwards, Lee Ann Hughes, Anthony J Hughes, Selevan Wright/Berneder Wright, Linda Nash, Ethel P Jackson, James Gay/Elizabeth Gay, William Heckard/ Lillie B Heckard, Bessie Hawkins (FBO T.J. Hawkins, Deceased), Mary Pounds/Eugene Pounds Sr, Susie J. Williams (FBO Roosevelt Williams, Deceased), Clarence Everett Woods, Mona Wheeler, Dizzy Buckhaulter/Barbara Harper Buckhalter, Tobias Jenkins, Hattie B Stewart (FBO Anderson Stewart, Deceased), Albert Lucas, Israel Hicks Sr, Maggie Reese, Hoover D. Steele, George Edward Smith/Sandra L Smith, Willie Gallop/Mary Gallop, Bill B. Person, Norma S Barrett (FBO Cecil R Sutton. Deceased), Sherilyn Ann Conger, Kenneth Kelly Ball/Terry Ann Ball, Paul Eugene Waters Jr (DBA Meredith Farms Inc), Nell Weaver, Wiley P James/Glorine B James, Joseph Whiting/Cynthia Whiting, Sam Worley Jr, O Woodrow Nixon, Sarah Stanley (FBO English Davis Stanley, Deceased), Adrian Boyd, Alfred Lee King/Patricia Jean King Zelpha Whatley, Ethel Dotson, Perrin Mobley/C/O Annie Mobley, Fauntilla Miller, Willie Wilson/ Norma Jane Wilson, Frank M Cobb, Rozell Morton III/ Catherine Morton, Ivory Minor, John Ford/Laura Ford, Gene R Jones/Gracie W Jones, Elizabeth Addison Smith (FBO Lonnie Mae Addison, Deceased), Lillie D Steele (FBO Nathaniel Steele Jr, Deceased), L.W. Woods, Bobbie W. Collins, Andrew Collins, Sr, Mattie Brownlee, Mattie Richards-Herd (FBO Alex Richards, Deceased), Thomas Outlaw, Jr., Mary Ferguson, Luella P Edwards/Willie B Edwards, Sr., Velva Adair, Mary Bell, McArthur Douglas/ Bobbie Wilson Douglas, RC Conner/Mary Conner, Willie James Simpson, Gladys Witherspoon/Leroy Witherspoon, Barbara A McKinney, Viola Williams-Underwood(FBO N.J. & Mary R. Rose, Deceased), Mingo Bracy, Jr., Sammy L Tremble, Darnell Ford/Rosalind Ford, Oliver Jackson, Londell Williams/Karen Williams, Quincy Thomas, Aaron B Hurst, Jr., Raymond Bohanon (FBO Prince Bohanon,

Deceased), Clarence Swopshire, Harry T Vann/Mamie M Vann, Leroy Morgan/Ora Morgan, Gerard Guerin/Gloria Guerin, Clenon Carter, Shirley Mae Jackson, Juanita Williams, Cheryl Ford, James Gay (FBO Ellis C Gay, Deceased), Audrey Harleaux (FBO Harold Harleaux, Deceased), George Burks/Juanita Burks, Larry Sonnier, Darryl J Guillory, Brenda Coon, Percy Jefferson, Rogers B Morris/Devoyce Campboll Morris, Jessie Crawford, Ray Walker, Charity M Barnes, Michelle Lowe, Byethel E Abram, Willie Little, Darryl Thompson, Perry Lee Vann, Willie A Boyd, Jr./Wanda Mae Boyd, Otis A Simmons/ Claretha J Simmons, Bryant D Creecy, Sr./Charles M. Creecy, Jr., Fred Greggs, Jr., Cheyenne Greggs, Carshena Greggs, Chiquita Greggs, Gregory R. Guess/Kimberly Ann Guess, Nerer J. Bonner, Robert McFadden/Mattie McFadden, Vena L. Wilson (FBO William L Wilson, Deceased), Jim H. Edwards, Brenda Gail Edwards, Benny Wise Ball/Doris Lee Ball, Julius E. Davis, Robert W. Martin, Aldon Jarrett, Jacqueline Burrell, Raymond Johnson, Henry Sanders, Cedric Otis, Lou Stella Essex (For the Estate Of Frank Wimes), Evelyn Wagner Wright/Estate Of Ben Wagner, Queen Esther McKnight, Andrew Smith/Estate Of Anna Smith, Jack Whorline/Mary A. Kimbrough, John E. Way, George Thomas, Darren Mobley, Elijah Gray, Berenda Lester,Alex Crawford, Jr., Olice Fields, John Whaley, Joseph L. Martin, Joseph Tookes, Angela Marshall, Vera Moffett, Dorothy Paramore, Lathia Green.

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## OPINIONS BELOW

The opinion of the District Court denying relief to 305 class members who missed filing deadlines is reported at 265 F.Supp.2d 41 (D.D.C. 2003) and reproduced in the Appendix ("App.") at 48a-65a. The opinion of the District Court denying reconsideration of its decision is reported at 307 F.Supp.2d 43 (D.D.C. 2004) and reproduced at App. at 36a-47a. The opinion of the United States Court of Appeals for the District of Columbia Circuit affirming the decision of the District Court is reported at 416 F.3d 12 (D.C.Cir. 2005) and reproduced at App. at 6a-35a. The opinion of the Court of Appeals denying rehearing en banc and rehearing is unreported and is reproduced at App. at 1a-2a, 3a.